

REMARKS

Claims 1-28 are currently pending in this application and were allowed in the "Notice of Allowance" mailed June 16, 2008. The Applicants would like to thank the Examiner for the allowance. This amendment is being submitted under the provisions of 37 CFR 1.312 for the purpose of correcting inventorship under 37 CFR 1.48(a).

The Applicants have discovered that the inventorship of the present application was erroneously listed. To remedy this error, the Applicants have submitted herewith a "Request to Correct Inventorship" along with the appropriate documentation related thereto. The Applicants note that with this correction, the inventive entity of the present application is now identical to that of commonly owned but unrelated US Patent Application No. 10/754,899 - published as US 2005/0182454 on August 18, 2005 - which is a continuation of PCT Patent Application Serial No. PCT/US02/22247 - published as WO 03/005887 on January 23, 2003 - such that neither App. No. 10/754,899 or its parent PCT/US02/22247 are prior art under 35 USC 102 and 35 USC 103 to the present application.

The Applicants again respectfully ask that this amendment after allowance be entered by the Examiner as provided for under 37 CFR 1.312.

The Applicants have authorized a payment of the ~~\$130.00~~ fee for request to correct inventorship to be charged to Deposit Account No.: 50-2040 for Customer No.: 30,328. No other fees are deemed necessary at this time. No other fees are believed to be necessary, however, in the event that there are any additional fees to be charged or payments to be credited, the Applicants hereby request that any charges or credits be made to Deposit Account No.: 50-2040 for Customer No.: 30,328. In the event that there are any questions concerning the remarks above or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

Attorney Docket No. 071US1

Serial No. 10/809,280

Filing Date: March 25, 2004

Title: System and Methods for Performing Surgical Procedures and Assessments

Respectfully submitted,
NUVASIVE, INC.

By: _____



Rory Schermerhorn, Esq.
Registration No. 58,148

7475 Lusk Boulevard
San Diego, CA 92121
Tel.: (858) 909-1845

September 15, 2008